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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

NIKE, INC.,

Plaintiff,

v.

LULULEMON USA INC.,

Defendant.

Case No.: 1:23-cv-00771-AS

**DEFENDANT'S NOTICE OF MOTION
AND MOTION FOR SUMMARY
JUDGMENT**

PLEASE TAKE NOTICE that, upon this Notice of Motion, and the accompanying Memorandum of Law in support of Defendant lululemon usa inc.'s ("lululemon") Motion for Summary Judgment, the Local Rule 56.1 Statement of Material Facts, the Declaration of David S. Brookstein, and the Declaration of Ali S. Razai with exhibits filed concurrently herewith, and all other papers and pleadings filed with the Court, lululemon hereby moves this Court, before the Honorable Arun Subramanian of the United States District Court for the Southern District of New York, at the United States Courthouse, 500 Pearl Street, Courtroom 15A, New York, NY 10007, at a time and date to be designated by the Court, for an order granting summary judgment or partial summary judgment in favor of lululemon against Plaintiff Nike, Inc. ("Nike").

lululemon moves the Court for summary judgment of non-infringement of the asserted claim (claim 1) of U.S. Patent No. 9,730,484 because the accused products are not made using a "flat-knitted element" having "a central portion having a domed, three-dimensional structure configured for extending over the top of a foot" as required by claim 1.

lululemon moves the Court for summary judgment of non-infringement of the asserted claims (claims 1, 8, and 16) of U.S. Patent No. 9,375,046 because the accused products do not contain a "tubular" structure as required by the claims.

lululemon move the Court for summary judgment of invalidity of the asserted claims (claims 1 and 14) of U.S. Patent No. 8,266,749 because the asserted claims would have been obvious in view of prior art knitted shoes sold by adidas in combination with the knowledge of a person having ordinary skill in the art.

Dated: July 29, 2024

Respectfully submitted,

/s/ Ali S. Razai

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 29, 2024, the attached document was filed electronically through CM/ECF system, which will send notice to the registered participants identified on the Notice of Electronic Filing.

Dated: July 29, 2024

By: /s/ Ali S. Razai
Ali S. Razai

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